

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10379 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SAVITABEN KARSANBHAI VADHEL

Versus

DIRECTOR OF SOCIAL WELFARE

Appearance:

MR NK MAJMUDAR for Petitioner

MR VB GHARANIA, AGP for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/08/1999

ORAL JUDGEMENT

Heard learned counsel for the parties.

Rule. Mr.V.B.Gharania, AGP waives service of notice of rule on behalf of the respondents.

The learned counsel for the petitioner does not dispute that she was not possessing the requisite eligibility for the post on which earlier she was given appointment.

The petitioner has not filed rejoinder to the reply filed

by the respondent to the petition. From the reply, I find that the petitioner was not graduate when she was appointed in the service and that was the minimum qualification required for the appointment on the said post. Earlier, the respondents have permitted the institution to appoint the petitioner though she was not possessing requisite qualification only for one year. Otherwise also the appointment of the petitioner made earlier was ab initio void leaving apart the fact that it was purely temporary appointment for a fixed term. In these facts and circumstances the respondents have not committed any error in case they invited fresh applications by issuing advertisement and made the selection for the post. The petitioner now acquired the eligibility and she could have also applied. From the reply, I find that 3 persons were placed in the merit list at Sr. No.1, 2 & 3, names of whom have been mentioned in the Clause-A of para No.4 of the reply. When the selected candidates are available, who are duly qualified also the petitioner cannot be permitted to continue to hold the post. She has to be replaced by the duly qualified, selected candidate, which precisely what the respondents are doing. The appointments made in response to the advertisement has already been approved by the competent authority. Above all the petitioner has not applied for the post in response to this fresh advertisement also.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharges. No order as to costs.

(S.K.Keshote, J.)

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